IN THE HIGH COURT OF ORISSA AT CUTTACK
STREV No. 526 of 2008

M/s. Green Gospeller .... ***Petitioner***
Mr. R.K. Kar, Advocate

-versus-

State of Odisha, represented by the Commissioner of Sales Tax ... ***Opposite Party***
Mr. Sunil Mishra, Addl. Standing Counsel

CORAM:
THE CHIEF JUSTICE
JUSTICE R.K. PATTANAIK

ORDER
21.06.2022

Order No.

04.

1. The present revision petition by the Assessee is directed against an order dated 19th May, 2008 of the Orissa Sales Tax Tribunal, Cuttack (Tribunal) whereby the Assessee's appeal being S.A. No.993 of 2002-03 was dismissed and the order of the Assistant Commissioner of Sales Tax (ACST) dated 28th May, 2002 was affirmed.

2. The Assessee admittedly is a small scale unit engaged in the manufacture and sale of steel furniture, fabrication material and agricultural implements. During the visit by the Sales Tax Authorities to its business premises on 15th July 2000, materials were recovered which showed purchase suppression. The gross turnover was enhanced by the STO by Rs.21,56,000/- i.e. four times the alleged purchase suppression and the tax demand was raised accordingly.

3. When the Assessee went before the ACST, a liberal view was taken by noting that the purchase suppression worked out to Rs.2,48,000/- on prorata basis for a period of three months i.e.

January, February and March, 2000. The enhancement of gross turnover (GTO) was therefore reduced to Rs.9,92,000/- i.e. four times the actual purchase suppression.

4. This Court has heard the submissions of Mr. Kar, learned counsel for the Assessee and Mr. Sunil Mishra, learned Addl. Standing Counsel for the Department.

5. Given the scale of operation of the Petitioner's business, which is a small scale unit, and with there being no previous instance of any such purchase suppression, the Court is of the view that the enhancement of the GTO by two times the actual purchase suppression as determined by the ACST i.e. 2,48,000 X 2 would serve the ends of justice. It is ordered accordingly and the impugned order of the Tribunal is accordingly modified.

6. It is clarified that this order is being passed in the peculiar facts and circumstances of the case and is not to be treated as a precedent.

7. The revision petition is disposed of in the above terms. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(R.K. Pattanaik)
Judge

S.K. Jena/Secy.